THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.9906 of 2006

Date: 23-11-2007

Between :-

M.S.Badrinath .. Petitioner

And

The Director,
Civil Supplies, A.P.,
Hyderabad and 3 others ..
Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.9906 of 2006

ORDER:-

Heard the Counsel.

2. The writ petition is filed for a Writ of Mandamus declaring the action of the 1st respondent in issuing the order vide Appeal No.N1/9516/5 dt.4-3-2006 as against the principles of natural justice and violaltive of Articles 14, 19 (1)(g) of the Constitution of India and as illegal, arbitrary and violaltive of the statutory law in the interest of justice.

3. It is stated in the affidavit filed in support of the Writ Petition that *respondent No.3 had submitted proposals for bifurcation of supply cards registered in Fair Price Shop of*

the appellant in the 29th Ward of Hindupur and creation of new Fair Price Shop in the same ward and that in accordance with the instructions of the Government, respondent No.2 had accorded permission for bifurcation of supply of cards. It is also further stated that one Smt.Parvthamma, W/o.Ramehwara Reddy, Fair Price Shop Dealer, 29th Ward, R/o.Chowdeshari Colony, Hindupur had been running the Fair Price Shop. Further it is stated that as per G.O.Ms.No.57, dated 13-5-2005 the Government had issued certain guidelines for issue/exchange of new Household Supply Cards. It is also further stated that as per Government memo No.148 dt.22-1-1999 the minimum number of supply cards in urban area is 500 and that in the instant case of the petitioner there are total of 1024 White Cards and 168 Pink Cards and that out of which the petitioner holds supply cards of 468 White Cards and 76 Pink Cards. It is also averred that after the shop was bifurcated which was being run by Smt.Parvathamma, the respondent No.3 issued proceedings vide D.Dis.1053/2005 dated 26-7-2005 appointed the petitioner as Fair Price Shop Dealer of Chowdeshwari Colony, Shop No.II. It is further averred that the since 26-7-2005 the petitioner had been running the Fair Price Shop without any irregularities being

committed to the satisfaction of the cardholders and supplying the commodities. It is also averred that the Director of Civil Supplies i.e., the 1st respondent had set aside the orders of the respondent No.2 by order dated 4-3-2006. It is also stated that there was no communication either by the 1st respondent or by the 3rd and 4th respondents about setting aside the order which resulted in the temporary appointment. It is also further stated that the order was passed on 4-3-2006 by the respondent No.1 but still commodities were supplied to the petitioner by the authorities even in the month of April, 2006. It is also further stated that the petitioner was kept in dark by the respondents about setting aside the order by the respondent No.1. It is further stated that the petitioner came to know about the same when the petitioner went to pay the Demand Draft which was rejected stating that the shop was not in existence. In such circumstances, the petitioner approached this Court praying for appropriate reliefs.

4. In the counter affidavit filed by respondent No.2, it is stated that *as per the report of the Mandal Revenue Officer, Hindupur vide Rc.No.13/2005/CS, dated 17-12-2006, the order of the Director of the Director of Civil Supplies, A.P., Hyderabad passed in appeal*

No.N1/9516/05, dated 4-3-2006 was served to the writ petitioner on 19-4-2006. Further it is averred that as the writ petitioner had submitted the Demand Draft towards the cost of the essential commodities to the Mandal Revenue Officer, Hindupur on 17-4-2006, the stocks were supplied to him for the month of April, 2006 to avoid inconvenience to the cardholders in view of the shortage of time for making alternative arrangements for distribution of essential commodities to the cardholders since the time allowed for placing the demand drafts for essential commodities was over. It is also stated that the Mandal Revenue Officer had served the copy of the order of the Director of Civil Supplies, dated 4-3-2006 to the writ petitioner on 19-4-2006. Further it is stated that on creation of a new Fair Price Shop as per the orders of the Collector dated 12-5-2005, the Revenue Divisional Officer, Penukonda had appointed the petitioner on purely temporary basis to avoid inconvenience to the cardholders in distribution of essential commodities and for smooth running of the Public Distribution System. When the Orders of the Collector, Anantapur dated 12-5-2005 were set aside by the Director of Civil Supplies, Government of A.P., Hyderabad, the new Fair Price Shop was ceased and automatically the temporary appointment of the petitioner was also case and hence the contentions

of the writ petitioner are not sustainable and deserves no consideration. Further in reply to para 9, it is stated that the appointment of the petitioner was purely temporary and liable for termination at any time without any notice and that the appointment made by the respondent No.3 was to avoid inconvenience to distribution of essential commodities to the cardholders and for smooth running of the Public Distribution System only. Further it is averred that on creation of a new Fair Price Shop as per the orders of the Collector dated 12-5-2005, the Revenue Divisional Officer, Penukonda had appointed the petitioner on purely temporary basis to avoid inconvenience to the cardholders in distribution of essential commodities and for smooth running of the Public Distribution System. When the Orders of the Collector, Anantapur dated 12-5-2005 were set aside by the Director of Civil Supplies, Government of A.P., Hyderabad, the new Fair Price Shop was ceased and automatically the temporary appointment of the petitioner was also case and hence the contents of the writ petitioner made in this para are not sustainable. Further it is stated that the Director of Civil Supplies, Hyderabad on perusal of records and remarks of the Collector, grounds of appeal and on hearing the arguments of the appellant, the orders of the Collector,

Anantapur passed in Progs.D.Dis.K4/493/05 dated 12-5-2005 were set aside and allowed the appeal in Appeal No.N1/9516/05, dated 4-3-2006 for the following reasons:-

> *"As per the Government Memo No.148, dated 22-1-1999 no new Fair Price Shop shall be created if the number of cards to be attached is less than 500 in urban areas. But in the instant case consequent on bifurcation the cards attached to each shop is less than 400. As such neither of the shops would be economically viable. Further, there is no mention of specific reason for creation of new shop. In view of the said reasons the bifurcation orders dated 12-5-2005 were set aside. Hence, the petitioner herein cannot have any grievance. The petitioner has approached this Court on untenable grounds."*

5. In the light of the respective stands taken by the parties, especially, the specific stand taken in the counter affidavit that the Director of Civil Supplies had taken into consideration all the facts and circumstances and ultimately recorded a reasoned order and the bifurcation order had been set aside, the writ petitioner as such cannot claim the same and this Court, in fact, issued *rule nisi* on 13-9-2006 but however W.P.M.P.No.12514/2006 had been dismissed and no interim order had been granted and hence viewed from any angle, the Writ Petition shall devoid of merit and the Writ Petition shall

stand dismissed. No order as to costs.

Justice P.S.Narayana

23rd November, 2007

smr